

September 22, 2005

**Frequently Asked Questions  
Regarding Fee Changes Resulting from  
the Bankruptcy Abuse Prevention  
and Consumer Protection Act of 2005**

**Fees Collected at Time of Filing**

CHAPTER	STATUTORY FEE	OTHER FEES	TOTAL FEES COLLECTED AT TIME OF FILING
7	\$220	\$15 Trustee fee \$39 Administrative fee	\$274
9	\$1,000	\$39 Administrative fee	\$1,039
11	\$1,000	\$39 Administrative fee	\$1,039
12	\$200	\$39 Administrative fee	\$239
13	\$150	\$39 Administrative fee	\$189
15	\$1,000*	\$39 Administrative fee	\$1,039

\*The fee for filing a Chapter 15 is not statutory, but is enumerated at Item 16 of the Bankruptcy Court Miscellaneous Fee Schedule.

*1. In addition to the statutory filing fee of \$220 set forth at 28 U.S.C. § 1930 (1)(a), what other fees are collected at the time of filing a chapter 7 case?*

The \$39 administrative fee (Item 8 of the Bankruptcy Court Miscellaneous Fee Schedule) and the \$15 trustee fee (Item 9 of the Bankruptcy Court Miscellaneous Fee Schedule) are also collected at the time a chapter 7 case is filed. **Thus, the total amount of fees collected for filing a chapter 7 case is \$274.**

*2. In addition to the statutory filing fee of \$150 set forth at 28 U.S.C. § 1930 (1) (b), what other fees are collected at the time of filing a chapter 13 case?*

The \$39 administrative fee (Item 8 of the Bankruptcy Court Miscellaneous Fee Schedule) is also collected at the time a chapter 13 case is filed. **Thus, the total amount of fees collected for filing a chapter 13 case is \$189.**

*3. In addition to the statutory filing fee of \$1,000 set forth at 28 U.S.C. § 1930 (3), what other fees are collected at the time of filing a chapter 11 case?*

The \$39 administrative fee (Item 8 of the Bankruptcy Court Miscellaneous Fee Schedule) is also collected at the time a chapter 11 case is filed. **Thus, the total amount of fees collected for filing a chapter 11 case is \$1,039.**

*4. In addition to the statutory filing fee of \$1,000 set forth at 28 U.S.C. § 1930 (2), what other fees are collected at the time of filing a chapter 9 case?*

The \$39 administrative fee (Item 8 of the Bankruptcy Court Miscellaneous Fee Schedule) is also collected at the time a chapter 9 case is filed. **Thus, the total amount of fees collected for filing a chapter 9 case is \$1,039.**

*5. In addition to the miscellaneous fee of \$1,000 set forth at Item 16 of the Miscellaneous Fee Schedule for Bankruptcy Courts, what other fees are collected at the time of filing a chapter 15 case?*

The \$39 administrative fee (Item 8 of the Bankruptcy Court Miscellaneous Fee Schedule) is also collected at the time the chapter 15 case is filed. **Thus, the total amount of fees collected for filing a chapter 15 case is \$1,039.**

## **Conversion Fees**

*6. What is the fee for converting a chapter 7 case to a chapter 11 case?*

**The fee for converting a chapter 7 case to a chapter 11 case is \$780** (the difference between the statutory filing fee for a chapter 11 case - \$1,000 - and the statutory fee for filing a chapter 7 case - \$220).

*7. What is the fee for converting a chapter 13 case to a chapter 11 case?*

**The fee for converting a chapter 13 case to a chapter 11 case is \$850** (the difference between the statutory filing fee for a chapter 11 case - \$1,000 - and the statutory fee for filing a chapter 13 case - \$150).

*8. What is the fee for converting a case under any chapter to a chapter 7 case?*

**The fee for converting to a chapter 7 case remains at \$15** pursuant to Item 10 of the Bankruptcy Court Miscellaneous Fee Schedule.

Note: The new statutory fee structure creates an issue upon conversion from Chapter 13 to Chapter 7. Prior to October 17, 2005, the fees for both chapter 13 and chapter 7 cases were the same, thus there was no discrepancy between the amounts collected when a chapter 13 case converted to a chapter 7, and the only fee collected was the \$15 trustee fee required by Item 10 of the fee schedule. After October 17, 2005, however, it will be possible to file a case under chapter 13 (total fee of \$189), then subsequently convert to chapter 7 and pay the \$15 conversion fee, making the total amount paid \$204. This amount is \$70 less than would have been paid if the case was originally filed under chapter 7. Administrative Office staff will raise this issue to the appropriate Judicial Conference committees for possible action.

*9. What is the fee for converting a chapter 7 case to a chapter 13?*

No fee is charged for converting a chapter 7 case to a chapter 13 case, and no refund (of the difference between the filing fees for the respective chapters) shall be given.

*10. Is the miscellaneous administrative fee of \$39 charged upon conversion?*

No.

## **Reopening Fees**

*11. After October 17, 2005, what fee is charged for filing a motion to reopen a case that was originally filed prior to that date?*

The fee charged for reopening a case would be the amount of the filing fee for the appropriate chapter of the particular case on the date of reopening. **Thus, after October 17, 2005, the fee for reopening a chapter 7 case is \$220, the fee for reopening a chapter 11 case is \$1,000, and the fee for reopening a chapter 13 case is \$150.**

*12. Is the miscellaneous administrative fee of \$39 charged upon reopening?*

No.

## **Split Cases**

*13. What fee is charged for splitting a joint case filed before October 17, 2005 but split after that date?*

Pursuant to Item 19 of the Bankruptcy Court Miscellaneous Fee Schedule, the fee charged for splitting a case would be equal to the filing fee, **at the time of the request to split the cases**, for the chapter under which the joint case was commenced. **Thus, after October 17, 2005, the fee for splitting a chapter 7 case would be \$220, the fee for splitting a chapter 13 case would be \$150, and the fee for splitting a chapter 11 case would be \$1,000.**

## **Other Fee Issues not related to Bankruptcy Abuse Prevention and Consumer Protection Act of 2005**

### **Adversary Fees**

As noted in the August 10, 2005, memorandum from the Director, the fee for filing an adversary proceeding, (Item 6 of the Bankruptcy Court Miscellaneous Fee Schedule), including a proceeding instituted by a notice of removal from another court, has increased to \$250, effective September 20, 2005.

*What fee amount should be collected if an adversary proceeding was filed prior to September 20, 2005 and the trustee was permitted to defer the fee, and estate assets are found and available to pay the adversary fee after September 20?*

The fee collected would be the adversary fee amount that was due when the adversary proceeding was filed. Thus, in the situation described in the question, the fee to be collected would be \$150.

### **Lift Stay Fee**

As noted in the December 22, 2004, memorandum from Glen Palman, **the fee for filing a motion to lift the automatic stay (or to compel abandonment or withdraw the reference) is \$150.** The 2005 edition of the Bankruptcy Code published by Thomson West **incorrectly** states in Item 20 of the Bankruptcy Court Miscellaneous Fee Schedule that the fee for filing a motion to lift stay (or to compel abandonment or withdraw the reference) shall be “the amount of the filing fee prescribed in 28 U.S.C. § 1914(a)” for filing a civil action. In 2004, in order to ensure that increases to the civil action filing fee have no impact on the fee for filing a motion to lift the automatic stay, the Judicial Conference approved a recommendation to amend Item 20 to delete the reference to the amount required for filing a civil action and insert language establishing a \$150 fee for a motion to lift the automatic stay. (JCUS-SEP 04, p.11). Thus, although the civil filing fee under 11 U.S.C. § 1914 will be raised to \$250 effective September 20, 2005, the fee for filing a lift stay motion remains at \$150.

The correct wording of the relevant portion of Item 20 is as follows:

For filing a motion to terminate, annul, modify, or condition the automatic stay provided under § 362(a) of title 11, a motion to compel abandonment of property of the estate pursuant to Rule 6007(b) of the Federal Rules of Bankruptcy Procedure, or a motion to withdraw the reference of a case or proceeding under 28 U.S.C. § 157(d), **\$150.**